IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. NO. 15498 OF 2005

Date of Decision: May 10, 2007

Bhim Sen …Petitioner

Versus

Pepsu Road Transport Corporation and another …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashish Grover, Advocate,
for the petitioner.

Mr. R.S. Ahluwalia, Advocate,
for the respondents.

JUDGMENT

M. M. KUMAR, J.

The petitioner in the instant petition filed under Article 226 of the Constitution, has challenged order dated 30.8.2005 (P-4) passed by respondent No. 2, whereby the proficiency step up granted to him on 20.12.1991 after completion of 18 years of service has been withdrawn and further recovery has been ordered to be effected from him. The pay of the petitioner has also been reduced w.e.f. 20.12.1991. It is appropriate to mention here that earlier also respondent No. 2 had passed similar order on 27.4.2004 (P-1), which was challenged by the petitioner in this Court by filing C.W.P. No. 6364 of 2005, which was allowed vide order dated 17.5.2005 and the

aforementioned order dated 27.4.2004 was quashed with liberty to the respondents to pass a fresh order after affording an opportunity of hearing to the petitioner (P-2). Respondent No. 2 has now passed the impugned order dated 30.8.2005 (P-4), which is the subject matter of challenge in the instant petition.

After hearing the learned counsel for the parties and perusing the record we find that the issue involved in the instant petition is not res integra. It is trite law that no recovery can be fastened when there is no element of fraud or misrepresentation on the part of the employee. Reliance in this regard may be placed on the judgment of Hon'ble the Supreme Court in case of **Sahib Ram v. State of Haryana, 1995 (1) SCT 668,** wherein it has been categorically held that no recovery could be effected from an employee in the absence of misrepresentation or fraud on his part.

In view of the above, impugned order dated 30.8.2005 (P-4) is quashed to the extent it sought recovery from the petitioner. The writ petition is allowed to that extent.

Writ petition stands disposed of.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 10, 2007
Pkapoor